



0000064295

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MIKE GLEASON
KRISTIN K. MAYES
BARRY WONG

Arizona Corporation Commission

DOCKETED

DEC -5 2006

DOCKETED BY	nr
-------------	----

IN THE MATTER OF THE APPLICATION OF
VIVO COMMUNICATIONS-AZ, LLC FOR
CANCELLATION OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE
FACILITIES-BASED AND RESOLD LOCAL
EXCHANGE SERVICES.

DOCKET NO. T-03973A-05-0591

DECISION NO. 69172

ORDER

Open Meeting
November 21 and 22, 2006
Phoenix, Arizona

BY THE COMMISSION:

* * * * *

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

1. In Decision No. 63923 (August 6, 2001), the Arizona Corporation Commission ("Commission") granted Vivo Communications-AZ, LLC ("Vivo" or "Applicant") a Certificate of Convenience and Necessity ("Certificate") to provide competitive facilities-based and resold local exchange, interexchange and exchange access services in Arizona.

2. On August 15, 2005, Vivo filed an application for cancellation of its Certificate. The application stated that Vivo has no customers and does not hold deposits.

3. On August 29, 2006, the Commission's Utilities Division ("Staff") issued a Letter of Insufficiency and First Set of Data Requests to Vivo. Also on that date, a Procedural Order was issued requesting an update from Staff regarding the status of the application by September 29, 2006.

4. On September 29, 2006, Staff filed its Staff Report in this matter recommending approval of Applicant's request to cancel its Certificate.

5. Staff indicated that Vivo was contacted by phone and that Mr. Robert Timothy Sefton, President, stated that Vivo never provided telecommunication services as authorized in Decision No. 63923, nor collected advances, deposits or prepayments.

6. Vivo never conducted business in Arizona, nor collected advances, deposits and/or prepayments; therefore, the notice requirement of A.A.C. R14-2-1107(B) should be waived under the unique circumstances of this case. Absent the unique facts presented in this case, we will strictly enforce the requirements set forth in A.A.C. R14-2-1107.

7. Staff stated that according to the Commission's Consumer Services Section, there have been no complaints or inquiries for Vivo. Therefore, Staff recommended that Vivo's request for cancellation of its Certificate be approved.

CONCLUSIONS OF LAW

1. Applicant is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

3. The Commission has jurisdiction over Applicant and the subject matter of the application.

4. Staff's recommendations are reasonable and should be adopted.

5. The notice requirement of A.A.C. R14-2-1107(B) should be waived, under the unique circumstances of this case.

• • •

• • •

• • •

• • •

...

• • •

• • •

• • •

• • •

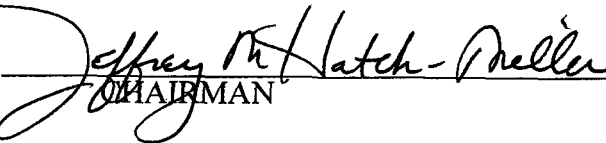
...

ORDER

IT IS THEREFORE ORDERED that the Certificate of Convenience and Necessity granted to Vivo Communications-AZ, LLC in Decision No. 63923 shall be, and hereby is, cancelled.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.


CHAIRMAN


COMMISSIONER


COMMISSIONER


COMMISSIONER


COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 5th day of Dec., 2006.


BRIAN C. McNEIL
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

SERVICE LIST FOR: VIVO-AZ
DOCKET NO.: T-03973A-05-0591

Robert Timothy Sefton
300 E. Maple Road, Ste. 270
Birmingham, MI 48009

Christopher Kempley, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

Ernest G. Johnson, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, AZ 85007